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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 659th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 29 September 2000, at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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GE.00-44715 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of the Marshall Islands (CRC/C/28/Add.12; HRI/CORE/1/Add.95; CRC/C/Q/MAR/1; written replies to the questions raised in the list of issues (document without a symbol distributed in English only))

1. At the invitation of the Chairperson, Mr. Kabua, Mr. Riklon, Ms. Langidrik, Ms. Maddison-Hill and Mr. Butuna (Marshall Islands) took places at the Committee table.

2. Mr. KABUA (Marshall Islands) said that all the members of the delegation were members of the National Nutrition and Children's Council (NNCC) established in 1991, with the approval of the Cabinet, to address protection of children and their rights, and were all directly involved either in the implementation and monitoring of the Convention or the legal aspects of the report.

3. The Republic of the Marshall Islands was a small country in the Pacific comprising 34 atolls and islands. Half of its population of 51,000 were children, and its culture was one of child-rearing and childcare. Since independence in 1979, special efforts had been made to protect the rights of children enshrined in the Constitution and in the domestic laws. Immediately upon the country's ratification of the Convention in 1993, a National Plan of Action for Children had been formulated to implement its provisions.

4. In the period that had elapsed since submission of the initial report, considerable progress had been made, with the cooperation of non-governmental organizations (NGOs) and civil society as a whole, in the vital areas of school enrolment, universal immunization, nutrition and reduction of infant mortality. Much remained to be done, however, in areas such as international adoption, teenage pregnancies, minimum age for marriage, birth registration, school drop-outs and censorship and control of materials harmful to children.

5. At a ministerial consultation meeting, held in Bangkok in 1998, the countries of East Asia and the Pacific, including his own, had reaffirmed their shared responsibility and collective commitment to attaining the goals of the World Summit for Children for the year 2000 embodied in their respective national plans of action.

6. The CHAIRPERSON, after commending the delegation on the high level of its representation and its direct involvement in the implementation of the Convention, invited the Committee members to put questions to the delegation on general measures of implementation.

7. Ms. KARP said that, while the report had been prepared according to the Committee's guidelines, it appeared to lack an analytical approach. Although occasionally self-critical, it did not describe actual problems encountered in implementing the Convention and practical measures for addressing them. Important indicators concerning child labour, child abuse and the juvenile justice system were not included in the statistics provided in the written replies.

8. It appeared that NGOs had not contributed to the drafting of the report, and it was not clear whether there had been any input from children. The reporting process was not intended solely for presentation to the Committee, but as a national evaluation process in which society was kept abreast of the situation with regard to children's rights and the measures being taken to address it. The report had not been published, and it appeared to have been drafted by one person designated by the relevant ministry, without public involvement.

9. Observing that the country's human rights protection structure was somewhat deficient, she asked why the Marshall Islands had ratified no human rights instrument other than the Convention on the Rights of the Child. Noting that UNICEF had been approached to assist in reviewing the legislation to bring it into line with the Convention, she said it was regrettable that pornography was not included among the issues being addressed, and asked what time-frame was envisaged for submitting the reviewed laws to Parliament. Also, when would the strategy for fields other than health be adopted under the Plan of Action?

10. It was unclear to what extent the NNCC acted as a coordinator between the ministries and the public. What had been the outcome of discussion of the plan to establish a focal point to coordinate children's programmes? She inquired what budget and manpower resources had been allocated for the NNCC's work. As the Marshall Islands were highly dispersed and work on the Convention was presumably carried out at the local level, how were budget allocation and responsibilities divided between the central and local authorities?

11. Mr. DOEK, referring to question 10 of the written replies, asked what basic rights of importance to children, especially the civil and political rights enshrined in articles 13-17 of the Convention, were included in the country's Bill of Rights, and whether children could invoke them in the courts, by themselves or through a representative. If so, that would explain the apparent delay in incorporating the relevant provisions of the Convention into the existing legislation. He asked how the allocation of 3.2 per cent of the budget to internal affairs and development affected children. For what use was it actually intended? Had that percentage increased since the preparation of the written replies?

12. Much of the Marshallese income derived from its 30-year Compact of Free Association with the United States. As the Compact was due for review in 2001, and as it accounted for a sizeable proportion of government expenditure and of gross domestic product (GDP), how would the authorities replace that source of income, in the event it were reduced or discontinued?

13. Monitoring the Convention meant ensuring that the authorities and the public alike complied with its provisions. Had the State party a complaints body for non-compliance, independent of the policy makers, either within the relevant ministry or elsewhere? If not, had thought been given to creating one?

14. Mr. RABAH, noting that no monitoring structure such as an ombudsman apparently existed in the country, asked whether the Attorney General's Office received complaints of violations of children's rights. Did Marshallese legislation on children fully conform to the provisions of the Convention? He would also welcome further information on the dissemination of the Convention, especially in schools and universities. Were children's rights included in those institutions' curricula?

15. Ms. EL GUINDI asked for clarification of the relationship between the NNCC, the main body responsible for implementation of the Convention, and the Ministry of Internal and Outer Island Affairs, which served as the focal point on child issues. Exactly what was the NNCC's structure? And who in each body was responsible for policy formulation, plans of action, monitoring and evaluation?

16. She asked whether there was a comprehensive plan of action to deal with the four areas assigned individual task forces, particularly as one of those areas, suicide, was thought to be rooted in social and psychological problems stemming from the difficult circumstances in which children lived. She also wondered whether the expected doubling of the population in 20 years' time, despite the current decline in the population growth rate, was not an issue that should itself be addressed by a task force.

17. Ms. RILANTONO noted that communication between the islands was difficult and wondered whether modern forms of communication, such as telephones, existed. With regard to budget allocations, she asked how the State party could claim that no discrimination existed when there was a gap between urban and rural Gross Domestic Product (GDP). She would like to know the responsibilities of the Minister of Urban Development and whether that minister was responsible for the development of the country's resources.

18. She asked what areas of development the State party could undertake when the compact with the United States ended or was downscaled. For example, the core document (HRI/CORE/1/Add.95) referred to potential in agriculture and fisheries. She also wondered whether modern technology existed to maximize resources. The NNCC was a good starting point for implementing the Convention, but considering the problems encountered in ensuring respect for children's rights, perhaps it was lifestyle patterns that needed changing. The high percentage of children suffering from malnutrition and vitamin A deficiency might be lowered if a healthy lifestyle was promoted. It was not sufficient to provide services; changed lifestyles would guarantee the sustainability of the Government's investment.

19. Ms. MOKHUANE said she would like to know whether knowledge of the Convention's principles and provisions had been assessed. Did children approve of them and did they think the Convention was useful? With regard to the definition of the child, why was there a disparity in the minimum age of marriage for boys and girls? The Committee too was conscious of the physical and psychological differences between adolescent boys and girls, but it accorded importance to chronological age and, therefore, equal protection to both sexes. Concerning children's right to express their views, alternative sources had indicated that the prevailing philosophy in the State party was, "Children should be seen and not heard". She wondered whether any policies were in place to correct that view.

20. Ms. KARP asked whether there was an ongoing awareness-raising programme for professionals and the general public and whether professionals involved in children's issues drew on the Convention in their work. Had the Convention been included in the new curriculum for elementary schools?

21. Ms. MOKHUANE cited alternative sources to the effect that the momentum gained following the World Summit for Children, which had given rise to the creation of task forces,

information dissemination and greater respect for children's rights, had decreased. She would like to know whether the reason for that decrease was related to the question of coordination and implementation of the Convention.

22. Ms. EL GUINDI noted that, for children born out of wedlock, fathers were designated as "unknown" on the birth certificate if they did not admit to paternity. She questioned whether that practice demonstrated respect for the child's civil rights.

The meeting was suspended at 10.55 a.m. and resumed at 11.10 a.m.

23. Mr. KABUA (Marshall Islands) agreed with Ms. Karp that the report could have been more analytical. The reporting process was an ongoing one, however, and therefore subject to change. Concerning who had been involved in the preparation of the report, he said the NNCC represented a wide cross-section of society, including NGOs, churches, the Chamber of Commerce and business and private sectors. If any group's views were not reflected in the report it was because they had not been expressed. However, the State party would do its best to complement the information provided in the report.

24. Mr. BUTUNA (Marshall Islands) explained that the report had been based on statistical information from the 1988 Census of Population and Housing, and therefore did not include the latest information collected in the 1999 census. Indicators on child labour and the juvenile justice system, were admittedly lacking, but the State party, in cooperation with the United Nations Development Programme (UNDP), was establishing a plan of work to develop a Social Statistics Bulletin that would include crime statistics. The delegation hoped to have more data by its next appearance before the Committee.

25. Mr. RIKLON (Marshall Islands), replying to Ms. Karp, said that child labour was not an important issue in the State party and consequently was not provided for in the labour code. If the issue should arise in the future, the legislation would certainly be amended accordingly. Similarly, child neglect did not pose a significant problem because of the traditional extended family structure. With regard to juvenile justice, legal proceedings involving children were covered governed by various acts, including the Juvenile Procedure Act, which protected children in conflict with the law. A child who violated the law was brought before the courts in the presence of his or her parents, legal guardian or other legal custodian. Proceedings were private and their purpose was to determine whether a child was "delinquent" rather than "guilty", and to entrust the child to the appropriate authorities, usually the parents, for rehabilitation. In the State party, children under 10 years of age were not criminally liable. Those between 10 and 14 were criminally liable with the exception of the crimes of rape and murder.

26. The State party had not ratified other human rights instruments because they conflicted with the country's cultural practices. The law was ambiguous with regard to the age of sexual consent. The Births, Deaths and Marriages Registration Act made marriage legal for boys at 18 and girls at 16, yet, under the criminal law, sexual relations with a girl under 18 was a crime. The matter therefore called for review. It was true that the legislation should be amended to provide equal protection to both boys and girls. There was no law regulating children's exposure to pornography but the law did restrict the distribution of certain audiovisual products.

27. Regarding the division of authority in the Government, he said the Constitution provided for a central Government and subsidiary local government. The central Government comprised representatives from throughout the islands who served in the Parliament and the executive branch of Government. Local government was made up of local councils managed by individual atolls. In reply to Mr. Doek's question on civil and political rights and the Bill of Rights, he said the Constitution guaranteed all citizens the right to invoke the Bill of Rights if they considered that their rights had been violated. Regarding the existence of a body to monitor compliance with the Convention, the Office of the Attorney General was mandated to ensure that all laws were faithfully executed and was competent to receive complaints of violations.

28. The Convention itself had not been incorporated into domestic legislation but its provisions were reflected therein, with the exception of child labour, age of sexual consent and marriage and identification of the father of a child born out of wedlock. Admittedly, the State party's legislation discriminated between girls and boys with regard to the age of marriage but the law could be amended, if necessary, to raise the minimum age of marriage for girls from 16 to 18, in keeping with the Convention. In reply to Ms. Mokhuane's question, he said children's right to express their views was provided for in the Bill of Rights.

29. Mr. KABUA (Marshall Islands) said that two thirds of the country's revenue derived from the Compact of Free Association, an agreement under which the United States of America paid compensation to the Marshall Islands for having dropped the hydrogen bomb on its territory, causing damage to four atolls. The United States of America was also paying rent for a military base situated on a Marshall Islands atoll. Portions of that agreement would expire in 2001, and both countries were currently drafting plans for a renegotiation. Other portions of the agreement would remain in force for 15 more years, amounting to a total of 30 years. Some of the assistance funds were used for health, education and development. The Marshall Islands had not met its goal under that agreement of achieving self-sufficiency and economic independence, and the United States was under no obligation to renegotiate the agreement after its expiry. Without such assistance, it would prove difficult for the Marshall Islands to fulfil its obligations under the Convention.

30. Ms. HILL (Marshall Islands) said that a mobile team sponsored by the Ministry of Internal and Outer Island Affairs was disseminating the Convention throughout the Marshall Islands, and had begun to raise awareness in the outer island communities and to work with school children at the primary school level. Materials about the Convention had been translated into Marshallese. Development funds for women were used for holding workshops and generating projects to assist women in providing better care for children.

31. Ms. LANGIDRIK (Marshall Islands) said that the high growth rate was a priority concern of the Government of the Marshall Islands; a new population policy had recently been approved. Regarding the concern raised about transportation to the outer islands she said that, aside from the quarterly boat service, there was one weekly airline flight. The educational budget for the outer islands depended on the number of school children on each island; one of the smaller atolls, for instance, had only 27 households.

32. The Marshall Islands was a small country, and people knew each other well. Although the birth certificate of a child born out of wedlock might not contain the father's name, the child would nevertheless be taken care of by the father's family or extended family.

33. Mr. KABUA said that a child born out of wedlock was sometimes given the name of a male relative of the mother.

34. Ms. EL GUINDI inquired about the criteria for domestic adoption and asked how the best interests of the child were ensured in such cases. She would also like to know what measures, if any, had been taken to ensure that the best interests of children were considered in intercountry adoptions, and whether a follow-up mechanism existed.

35. Ms. KARP asked how long it took for a draft amendment to be considered by the legislature and enacted as law. She would also like to know the relationship between the NNCC and the Ministry of Health and Environment. It would be helpful to know whether the NNCC functioned as a coordinating body for the ministries involved in the protection of children's rights, and, if so, how that coordination worked.

36. Although it was undoubtedly difficult for the Government to provide equal services to children on all islands, failure to do so was a failure to implement the Convention properly. She would like to know whether the Government assumed the responsibility for ensuring that Marshallese children were not discriminated against, and whether it had considered allocating a greater proportion of funds to less advantaged areas, in order to compensate for differences. It would also be helpful to know whether training in the Convention had been offered at both the elementary and secondary school levels.

37. She wondered whether children contributed to the work of the NNCC, and whether they had participated in the formulation of the report. The right of a child to be heard and the constitutional right to freedom of speech, which the report seemed to confuse, were very different matters. What measures had been taken, over the previous 10 years, to alter traditional attitudes, for example by formulating protocols and training professionals to help children express themselves? The written replies identified three areas in which a child's rights were heard: juvenile justice proceedings, decisions involving custody and decisions involving adoption. Nothing had been said about children's right to express their views in school.

38. It would also be useful to know whether the Government had considered creating a central statistical information service on children, which could, for example, be used in the planning of programmes and activities.

39. The absence of information on child labour was troubling, in view of the elevated school drop-out rate. It must be asked what children who dropped out of school did with their time. The Government should conduct a study on working children; it should also consider ratifying international child labour agreements and enacting related domestic legislation.

40. As the Convention on the Rights of the Child, to which the Marshall Islands was a State party, reflected the provisions of many other essential human rights instruments, she wondered what was preventing the country from embracing those agreements, and thereby joining the

world effort to enhance human rights and the dignity of the human being. Finally, she would like to know what measures had been taken by the Office of the Attorney-General - which apparently had the responsibility of defending the victims of human rights violations - to halt the practice of imprisoning children in adult detention centres and prisons.

41. Mr. DOEK said that, although ratifying all existing human rights legislation was undoubtedly a forbidding task, only eight conventions on international adoption and child abduction existed. Child abduction within the Marshall Islands might not be a serious issue, but children could conceivably be abducted from or to that country: the Government should become a party to the relevant international standards and agreements, in order to assist in the world effort to combat such problems.

42. He would like to know whether Marshallese schools had democratically-elected student councils, and if not, why not. It would also be useful to know whether children born out of wedlock in urban areas were cared for by extended families, as no children's homes or foster care system apparently existed, and whether the adoption of children by members of the extended family was an informal or a legal arrangement. If a child was abandoned by the extended family, could he or she be adopted by an unknown, unrelated couple? If so, what were the consequences of such an adoption?

43. Finally, it would be helpful to know what actions the police and human services agencies took on receiving a report of child abuse or domestic violence, whether children were sometimes removed from the home, and, if so, how the procedure for removing them functioned.

44. Ms. RILANTONO said she would welcome information about the functions of the NNCC. That body, which developed policies and programmes for the various ministries, could play an instrumental role if its recommendations were properly followed up. Were the recommendations it issued generally accepted and implemented by the respective ministries? What was their impact on budgetary policies? In the field of health, there had been indications that the situation of children in the Marshall Islands was unsatisfactory, especially in the outer islands. What steps had been taken to improve primary health care in isolated areas? Had the Government taken any steps to educate the young about the dangers of tobacco?

45. Mr. RABAH inquired about the Government's policy concerning corporal punishment, which was reportedly practised both within the family and in schools. The Committee had always maintained that such a practice was contrary to the child's dignity and was not in conformity with the Convention. Had the Attorney-General's office received any complaints in that regard? Had any measures been taken or planned to prohibit the practice?

46. Ms. MOKHUANE cited written reply 14 to the effect that single parent families were easily accommodated by Marshallese culture and that only 1.2 per cent of the population over the age of 12 was divorced or separated. While that figure was low, it was likely to rise, as the society was undergoing rapid urbanization. In addition, single parents might be less able to rely on the support of their extended families in the future. In the light of the dynamic social changes taking place, had the Government put any programmes or policies in place to strengthen the

family unit? In its replies the Government had stated that the authorities were addressing the problems of suicide and substance abuse. She would welcome information on specific policies in that regard.

47. Mr. KABUA (Marshall Islands) said that the NNCC was the overall coordinating body for activities relating to the rights of the child and that the focal point for information was the Ministry of Internal and Outer Island Affairs

48. People living in the outer islands were indeed discriminated against owing to a lack of transport. While that was a problem, the Government had recently purchased several ships to improve communications. There was also a domestic airline which was used, in particular, for medical evacuations.

49. Mr. RIKLON (Marshall Islands) said that two laws governing adoption provided that the best interests of the child should be taken into consideration as a deciding factor for all questions relating to adoption, including international adoption, and for custody matters. A bill currently before Parliament had the aim of creating a follow-up mechanism for international adoptions, which would include a form of reporting and monitoring by a specific agency. Replying to Ms. Karp, he said the amendment of legislation took place in stages. First, the proposed amendment was presented to a parliamentary committee, and public hearings were held. It was then submitted to Parliament, which met for 50 days in two semi-annual sessions, and was ready for adoption once it had undergone three readings. Most amendments were adopted within one or two parliamentary sessions.

50. The Attorney-General's office had received no reports of children who worked either in the public or private sector. Those who dropped out of school did not work in the structured sector, although some might engage in fishing or other traditional pursuits. He could only speculate as to the reason the Marshall Islands had not ratified more international human rights instruments. One possible explanation could be the time required to adapt the country's culture and customs. However, Marshallese society believed firmly in the importance of upholding the rights of the child and all human rights.

51. By law, children had to be held separately from adults in places of detention. Owing to a lack of resources, however, that had not been the case in practice. A draft programme currently being considered for adoption should correct that situation by allocating funds for the construction of a new facility which would provide separate quarters for children. Customary adoption was legally recognized, provided such adoptions were registered.

52. While it was true that corporal punishment was not expressly prohibited, charges had been brought for assault and battery in a case involving a teacher who had beaten a child. Under the current procedure, complaints were filed initially with the police, who carried out investigations and subsequently referred cases to the Attorney-General's office for prosecution. While enacting a general prohibition of corporal punishment would probably raise no problems, specifically prohibiting the practice in the home might prove difficult because of a traditional perception that corporal punishment in the family was necessary.

53. Ms. LANGIDRIK (Marshall Islands) said that the health care system consisted of two hospitals, one with 80 beds and the other with 35, and some 60 health centres located throughout the country. Each health centre was managed by a single health assistant, and only 10 of the 60 health assistants were women. The hospitals provided primary, secondary and some tertiary care, while only primary and curative care was available at the health centres. In 1986 the Government had adopted a primary health care strategy which focused on efforts to involve local communities in taking responsibility for primary health care, based on the premise that many of the diseases affecting the population, such as malnutrition, obesity and vitamin A deficiencies, were preventable. It had established community health councils that worked with the Ministry of Health and Environment for the promotion of health and for community education in primary health care.

54. In principle, health care services were accessible to the entire population living both in the two urban centres and on the outer islands. However, because of cultural constraints, women living in the outer islands sometimes encountered difficulties. For example, if a woman was related to the local health assistant responsible for running the health centre, it was often impossible for her to obtain prenatal care, treatment of sexually transmitted diseases or counselling in family planning. The Government had therefore undertaken to train traditional birth attendants (TBAs) in family planning and prenatal care, to enable them to work alongside the local health assistants.

55. The Ministry of Health and Environment included a human services division, which provided social services in cases of child abuse and neglect, alcohol and substance abuse and vocational rehabilitation. When child abuse or another form of family violence was reported, the Ministry, working with the public safety services, referred the case to the human services division, which initially sent its staff to speak to the family and provide counselling. If necessary, it would later work with the public safety services and the Attorney-General's office to remove the child from the home and place him or her with relatives. The human services division provided one-on-one counselling and also held group sessions with families experiencing similar problems.

56. All schools in the Marshall Islands had student governments, through which students could take part in the administration of their establishments and ensure that their views were heard. One of the members of the NNCC was a representative of a children's NGO known as Youth to Youth in Health, which was very active in disseminating information, for example through drama presentations on sexually transmitted diseases, family planning and other health matters. Concerning reproductive health, it was important to hold separate presentations for boys and girls to ensure that participants could ask questions freely. While information on health, education and the rights of the child was broadcast over the radio, some subjects could not be discussed on the air and required a personal presence.

57. While the Office of Planning and Statistics centralized the collection of statistical data, each government ministry collected data for the purposes of its own development.

The meeting rose at 1 p.m.